

REMARKS

This application contains claims 1-16, the status of which is as follows:

- (a) Claims 2-10 and 12-15 are as originally filed.
- (b) Claims 1, 11, and 16 have been currently amended.

No new matter has been added. Reconsideration is respectfully requested.

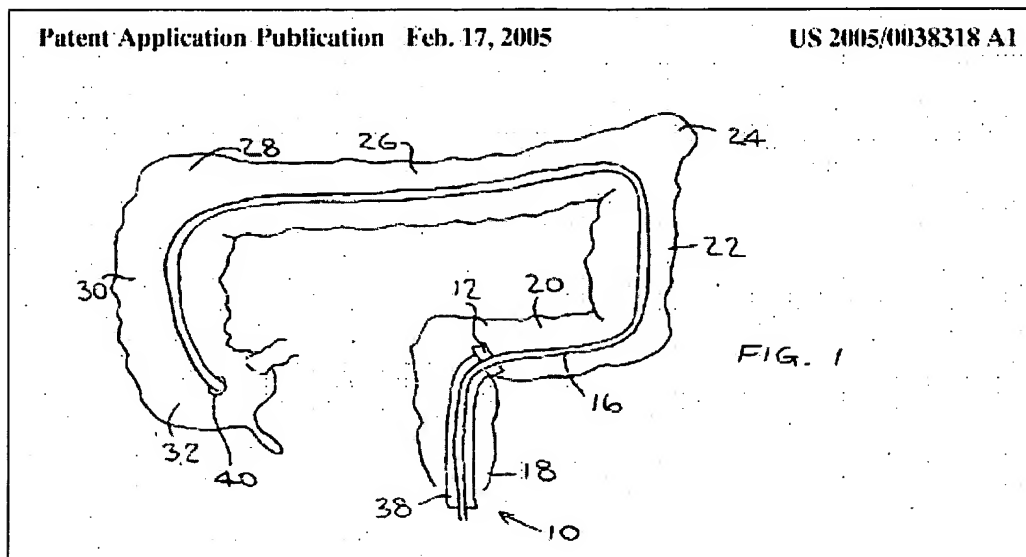
The applicant thanks Examiner Jeffrey Hoekstra for conducting an interview on August 9, 2006, with applicant's representative, Sanford T. Colb (Reg. No. 26,856). Mr. Colb and the examiner discussed that the inflatable device, as recited in the amended claims, pulls a guidewire through the colon, away from the rectum. Mr. Colb offered arguments (presented in full below) why the amended claims are patentable over the cited art, and the examiner and Mr. Colb agreed that further search and/or consideration would be necessary.

A Request for Continued Examination is being filed in this application.

Support for amendments

Independent claims 1, 11, and 16 have been currently amended to recite that the guidewire is introduced through the subject's rectum, and that the inflatable device pulls the guidewire, through the colon, away from the rectum. The amendments are broadly supported in the application as filed, for example, at paragraph [0022] of the patent application as published, and in Fig. 1:

[0022] As seen in FIG. 1, **guidewire 16 may be introduced through the rectum 18, ...** For example, guidewire 16 may be pushed through the colon by hand as in typical colonoscopic procedures. Alternatively, **guidewire 16 may be pulled through the colon, such as by a self-propelled mechanical device (or other devices, such as but not limited to, inflatable devices, electrical devices and the like).** Gastrointestinal tool 12 may then be introduced into the colon by sliding over guidewire 16. (emphasis added)



Rejections under 35 USC 102

In the outstanding office action, independent claims 1, 11, and 16, and dependent claims 5, 6, 12, and 14, were rejected under 35 USC 102 over Sammler et al. (US Patent 6,544,216). Sammler describes a balloon at the distal end of a flexible hose. The balloon guides the flexible hose through blood vessels of a patient. As described by Sammler, the balloon gets caught up in the blood flow, and pulls the hose downstream through the vasculature to a target location.

In particular, the description of Fig. 1 of Sammler states, and Fig. 1 shows:

At the distal end 16 of the pump hose 14 a balloon 35 is arranged which is configured here as annular balloon as shown in FIG. 2 and FIG. 3. The balloon 35 filled with gas (e. g. air, helium, CO₂) or a liquid has a larger outside diameter than the pump hose 14. Consequently, **the balloon 35 acts as a guide element entrained by the natural blood flow. Thus the balloon 35 is washed via the natural blood path** first into the right ventricle 24 and then into the pulmonary artery 26. (paragraph spanning cols. 3 and 4; emphasis added)

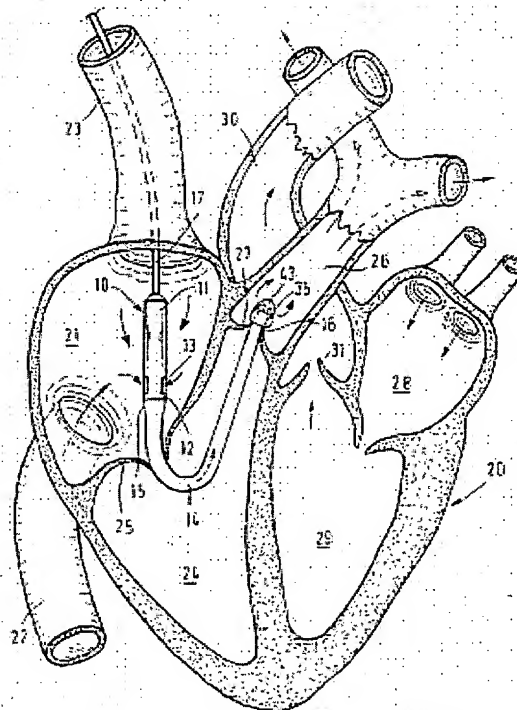


FIG. 1

The invention as recited in currently-amended claims 1, 11, and 16 is not described by Sammler, and it would not be obvious to modify Sammler's apparatus or method to arrive at the claimed invention. (The applicant additionally believes that the claims as originally filed were patentable over Sammler, but has chosen to amend the claims as described herein in order to more speedily obtain allowance of subject matter that is important to the applicant.)

Sammler does not describe:

"...an inflatable device, adapted to pull said guidewire through a colon of a subject, away from said rectum," as recited in claim 1,

"...providing an inflatable device adapted to pull said guidewire through a colon of a subject, away from said rectum;..." as recited in claim 11, or

"...pulling said guidewire through said colon, away from said rectum, using an inflatable device;..." as recited in claim 16.

As noted above, Sammler describes a balloon that is pulled along by **blood flow**. Independent claims 1, 11, and 16 are therefore novel over Sammler. The applicant respectfully submits that independent claims 1, 11, and 16 are, in addition, non-obvious over Sammler. There is no suggestion in Sammler that the vascular balloon could be modified to work in the gastrointestinal tract, and a person of ordinary skill in the art, having read Sammler, would not think to modify the Sammler device for use in the gastrointestinal tract. Indeed, placing Sammler's balloon into the gastrointestinal tract through the rectum would go against the teaching of the Sammler patent as a whole, because, **when inserted into the rectum, there would be no fluid flow to carry the balloon along and drag Sammler's flexible hose behind it.**

The applicant notes in this regard the following passage from MPEP 2143.01:

VI. THE PROPOSED MODIFICATION CANNOT CHANGE THE PRINCIPLE OF OPERATION OF A REFERENCE

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion... The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the

[primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

In light of this argument, the applicant respectfully submits that independent claims 1, 11, and 16 as currently amended are allowable over Sammler. Claims 2-10 and 12-15, which are narrower in scope than claims 1 and 11, respectively, are also believed to be allowable over Sammler.

Rejections under 35 USC 103

Claims 2-4 and 13 were rejected under 35 USC 103(a) as being unpatentable over Sammler in view of Panescu (US 5,740,808). Claim 7 was rejected under 35 USC 103(a) as being unpatentable over Sammler in view of Panescu, and in further view of Takada (US 4,561,427). Claims 8 and 9 were rejected under 35 USC 103(a) as being unpatentable over Sammler in view of Panescu, and in further view of Daniels (US 6,296,608). Claim 10 was rejected under 35 USC 103(a) as being unpatentable over Sammler in view of Panescu, and in further view of DeMarco (US 5,353,807). Claim 15 was rejected under 35 USC 103(a) as being unpatentable over Sammler in view of Panescu, and in further view of Ohshiro (US 4,040,413).

The applicant submits that in light of the believed allowability of the independent claims as currently amended, the rejections of the dependent claims under 35 USC 103 are now moot.

The applicant believes the amendments and remarks presented hereinabove to be fully responsive to all of the grounds of rejection raised by the examiner. In view of these amendments and remarks, the applicant respectfully submits that all of the claims in the present application are now in order for allowance. Notice to this effect is respectfully requested.

Respectfully submitted,

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Reg. 22, 261

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